

# City Council Agenda

Council President  
Blong Xiong

Councilmembers

Oliver L. Baines III  
Lee Brand  
Steve Brandau – Acting President

Paul Caprioglio  
Clinton J. Olivier  
Sal Quintero

City Manager  
Mark Scott

City Clerk  
Yvonne Spence, CMC

Interim City Attorney  
Francine M. Kanne

The meeting room is accessible to the physically disabled. If you require special assistance to participate in the meeting, notify the Office of the City Clerk at 559-621-7650 at least three business days prior to the meeting. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, contact Security.

The City Council welcomes you to the Council Chambers, located in City Hall, 2<sup>nd</sup> Floor, 2600 Fresno Street, Fresno CA 93721.

## February 28, 2013

### 8:30 A.M. ROLL CALL

Invocation by Councilmember Quintero of District 5

Pledge of Allegiance to the Flag

### Ceremonial Presentations:

Proclamation of "WORLD SPAY DAY" – Councilmember Olivier – Read and presented

The agenda and related staff reports are available on ([www.fresno.gov](http://www.fresno.gov)) as well as in the Office of the City Clerk. The Council meeting can also be heard live at the same web site address, and viewed live on Cable Channel 96 from 8:30 a.m. and re-played beginning at 8:00 p.m.

**PROCESS:** For each matter considered by the Council there will first be a staff presentation followed by a presentation from the involved individuals, if present. Testimony from those in attendance will then be taken. All testimony will be limited to three minutes per person. If you would like to speak fill out a Speaker Request Form available from the City Clerk's Office and in the Council Chambers. The three lights on the podium next to the microphone will indicate the amount of time remaining for the speaker.

The green light on the podium will be turned on when the speaker begins. The yellow light will come on with one minute remaining. The speaker should be completing the testimony by the time the red light comes on and tones sound, indicating that time has expired. A countdown of time remaining to speak is also displayed on the large screen behind the Council dais.

Following is a general schedule of items for Council consideration and action. The City Council may consider and act on an agenda item in any order it deems appropriate. Actual timed items may be heard later but not before the time set on agenda. Persons interested in an item listed on the agenda are advised to be present throughout the meeting to ensure their presence when the item is called.

Approve Council minutes of [February 14, 2013](#)

**Action Taken:** Approved

Approve Successor Agency to the Redevelopment Agency minutes of [February 14, 2013](#)

**Action Taken:** Approved

Councilmember Reports and Comments

**Action Taken:** Made

Approve Agenda

**Action Taken:** Approved, as amended

Adopt Consent Calendar

**Action Taken:** Adopted

1. **CONSENT CALENDAR**

All Consent Calendar items are considered to be routine and will be treated as one agenda item. The Consent Calendar will be enacted by one motion. Public comment on the Consent Calendar is limited to three (3) minutes per speaker. There will be no separate discussion of these items unless requested by a Councilmember, in which event the item will be removed from the Consent Calendar and will be considered as time allows.

- A. \* **RESOLUTION** – 38<sup>th</sup> amendment to the Annual Appropriation Resolution (AAR) No. 2012-125 appropriating \$235,800 for the Fresno Police Department's Asset Forfeiture Program (***Requires 5 affirmative votes***) – Police Department

**Action Taken:** Resolution No. 2013-20 adopted

- B. \* **RESOLUTION** – 40<sup>th</sup> amendment to the Annual Appropriation Resolution (AAR) No. 2012-125 appropriating \$268,900 for the Fresno Police Department's Peace Officer Standards Training (POST) Program (***Requires 5 affirmative votes***) – Police Department

**Action Taken:** Resolution No. 2013-21 adopted

- C. **Actions pertaining to approving the Final Map of Tract No. 5815 (*Property located in District 4*) – Public Works Department**

1. **RESOLUTION** - Approving the Final Map of Tract No. 5815 and accepting the dedicated public uses offered therein  
**Action Taken:** Resolution No. 2013-22 adopted
2. Authorize the Public Works Director or his designee to execute the subdivision agreement and the covenant for the maintenance of certain improvements under CFD-11 on behalf of the City  
**Action Taken:** Authorized
3. Authorize the Director of Public Utilities or his designee to execute the covenant for special solid waste disposal services and the covenant deferring payment of the Fowler interim fee surety to the time of occupancy on behalf of the City  
**Action Taken:** Authorized
4. Authorize the Development and Resource Management Director or his designee to execute the covenant deferring eligible development impact fees to the time of occupancy and the covenant acknowledging right to farm law on behalf of the City  
**Action Taken:** Authorized

1. **CONSENT CALENDAR CONTINUED**

- D. Actions pertaining to the construction of Herndon Avenue widening from Valentine Avenue to Brawley Avenue (*Property located in District 2*) – Public Works Department
1. Adopt finding of conformity to the Master Environmental Impact Report No.10130 prepared for the 2025 Fresno General Plan, as filed with the County of Fresno for the construction of Herndon Avenue widening from Valentine Avenue to Brawley Avenue  
**Action Taken: Adopted**
  2. Approve two (2) fee simple acquisitions from property owned by Sanchez, et al, for the widening of W. Herndon Avenue to six (6) lanes, construction of left and right turn lanes, modification of traffic signals, median island landscaping, undergrounding existing Fresno Irrigation District canal, construction of a multipurpose trail and rehabilitation of existing pavement on the south side of Herndon Avenue between N. Valentine and N. Brawley Avenue  
**Action Taken: Approved**
- E. \* **RESOLUTION - 41st amendment to the Annual Appropriation Resolution (AAR) No. 2012-125 appropriating \$65,900 for two (2) State funded railroad safety improvement projects (*Requires 5 affirmative votes*) – Public Works Department**  
**Action Taken: Resolution No. 2013-23 adopted**
- F. Actions pertaining to a lease agreement with John Tomaino DBA American Helicopters at Fresno Chandler Executive Airport – Airports Department
1. Adopt CEQA Categorical Exemption pursuant to guidelines Section 15301 (existing facilities) to authorize Amendment No. 1 to the lease agreement with John Tomaino DBA American Helicopters at Fresno Chandler Executive Airport  
**Action Taken: Adopted**
  2. Authorize the Interim Director of Aviation to execute Amendment No. 1 to the Fresno Chandler Executive Airport lease agreement between John Tomaino DBA American Helicopters and the City of Fresno to extend the lease term and other related changes  
**Action Taken: Authorized**
- G. Actions pertaining to acquisition of surplus California Department of Transportation property (*Property located in District 3*) – Public Works Department
1. **RESOLUTION -** Authorizing acquisition of surplus California Department of Transportation property and certifying public use of such property upon acquisition  
**Action Taken: Resolution No. 2013-24 adopted**
  2. Approve the acquisition of excess property from the State of California Department of Transportation for the construction of a new street from Hughes/West diagonal north of State Route 180 to Marks Avenue and along the N. Hughes Avenue for the installation of traffic signals, street lights, sidewalks, curb and gutter, drive approaches, water lines, sewer lines, and storm drain  
**Action Taken: Approved**
- H. \*. **BILL NO. B-2 (intro. 2/14/2013) (For adoption) -** Consider Text Amendment Application No. TA-13-001 and related environmental finding for Environmental Assessment No. TA-13-001 relating to termination of rights for special permits – Development and Resource Management Department  
**Action Taken: Ordinance No. 2013-3 adopted**

**CONTESTED CONSENT CALENDAR**

2. **GENERAL ADMINISTRATION**

- A. Award a contract to Vulcan Construction and Maintenance Inc. in the amount of \$5,426,640 for the installation of commercial water meters in the City of Fresno (Citywide) – Department of Public Utilities  
**Action Taken: Awarded**

2. **GENERAL ADMINISTRATION CONTINUED**

- B. \* **RESOLUTION** - 36th amendment to the Annual Appropriation Resolution No. 2012-125 to appropriate \$11,477,600 for operating programs and the completion of previously approved capital projects in the Public Works Department **(Requires 5 affirmative votes)**  
**Action Taken:** Resolution No. 2013-25 adopted
- C. Actions pertaining to the Fresno City Hall (H.V.A.C.) controls upgrade project **(Property located in District 3) – Public Works Department**
1. **RESOLUTION** - Authorizing the Director of Public Works or designee to specify Johnson Control System, without substitution, for the City Hall facilities that require a Direct Digital Controls/Energy Management System (DDC/EMS) under the sole source exception without an or equal language in the specifications
  2. Adopt finding of Categorical Exemption, pursuant to Article 19, Section 15300/Class 1 (existing facility) of the CEQA Guidelines, for the construction of the Fresno City Hall heating, ventilation and air conditioning (H.V.A.C.) controls upgrade project  
**Action Taken:**
  3. Award a construction contract in the amount of \$451,676, including the base bid plus add alternates 2 and 4 to EMCOR / Mesa Energy Systems of Fresno, California, for the construction of the Fresno City Hall H.V.A.C. controls upgrade project  
**Action Taken:** To be rescheduled on 3/21/2013
- D. \* **RESOLUTION** - 42nd amendment to the Annual Appropriation Resolution (AAR) No. 2012-125 appropriating \$450,000 of Proposition 1C funds in the Parks, After School, Recreation and Community Services Department, as previously approved by Council **(Requires 5 affirmative votes) (Property located in District 3) - PARCS**  
**Action Taken:** Resolution No. 2013-26 adopted
- E. **BILL – (For introduction) –** Amended uncodified ordinance to adopt to changes and additions to the official list of designated special speed zones designating speed limits for various streets within the City of Fresno pursuant to Section 14-1501 of the Fresno Municipal Code – Public Works Department  
**Action Taken:** Bill No. B-4 introduced/laid over
- F. \* **RESOLUTION** - Amending the implementing policies for the Citywide Regional Street and New Growth Area Major Street Impact Fees as previously adopted by Resolution No. 2007-291 and as amended by Resolution Nos. 2007-347, 2007-348, 2008-278 and 2008-349 – Public Works Department  
**Action Taken:** Resolution No. 2013-27 adopted

3. **CITY COUNCIL**

4. **CLOSED SESSION**

A. **CONFERENCE WITH LABOR NEGOTIATOR – Government Code Section 54957.6**

**City Negotiator (s):** Ken Phillips, Juanita Chavez

**Employee Organizations:**

1. IUOE, Stationary Engineers, Local 39 (L39)
2. Fresno City Employees Association (FCEA)
3. Fresno Police Officers Association (FPOA Basic)
4. International Association of Firefighters, Local 753 (Fire Basic)
5. Amalgamated Transit Union, Local 1027 (ATU)
6. International Brotherhood of Electrical Workers, Local 100 IBEW)
7. Fresno Police Officers Association (FPOA Management)
8. International Association of Firefighters, Local 753 (Fire Mgmt)
9. City of Fresno Professional Employees Association (CFPEA)
10. City of Fresno Management Employees Association (CFMEA)
11. Fresno Airport Public Safety Supervisors (FAPSS)

**Action Taken:** Held

B. **CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION - Government Code section 54956.9, Subdivision (d)**

1. **Case Name:** Jared Nicolaus Robinson; Irma Rodriguez-Robinson v. City of Fresno; Johnny Anthony Soto; Fresno Superior Court Case No. 12CECG01447
2. **Case Name:** Neng Vang; Tae Mouav, City of Fresno, Hector Greg Torres  
Fresno County Superior Court No. 11CECG03496 JH
3. **Case Name:** City of Fresno v. County of Madera; Board of Supervisors of the County of Madera; Tesoro Viejo, Inc. Real Party in Interest; Tesoro Viejo Master Mutual Water Company, Real Party in Interest; and Rio Mesa Holding, LLC, Real Party in Interest; Madera County Superior Court Case No. MCV062180
4. **Case Name:** City of Fresno v. County of Fresno; Board of Supervisors of County of Fresno; Real Party in Interest Bigelow Silkwood Friant Ranch L.P.; Friant Ranch L.P.; Friant Ranch No. 2 L.P.; Whispering Springs LLC; Friant Station Inc.; Martin & Associates, LLC; Depot Development Inc.; Fresno County Superior Court Case No.: 11CECG00706 (Consolidated with Fresno County Superior Court Case Nos. 11CECG00709 and 11CECG00726)
5. **Case Name:** City of Fresno v. Fresno County Local Agency Formation Commission (LAFCO) and Real Party in Interest, Friant Ranch L.P., Friant Ranch No. 2, L.P., Whispering Springs LLC; Friant Station Inc.; Depot Development, Inc.; County of Fresno, Board of Supervisors of the County of Fresno; Fresno County Waterworks, District No. 18; Fresno County Superior Court Case No. 11CECG03812
6. **Case Name:** City of Fresno v. Fresno County Local Agency Formation Commission; and Real Parties in Interest Waterworks District No. 18; Friant Ranch L.P.; Friant Ranch No. 2 L.P.; Whispering Springs LLC; Friant Station Inc.; Depot Development, Inc.; Fresno County Superior Court Case No. 13CECG00392

**Action Taken:** Held

**SCHEDULED COUNCIL HEARINGS AND MATTERS**

10:00 A.M. **HEARING** to consider formation of Underground Utility District No. FRE-92 on the north side of Nees Avenue from 0.2 miles west of Willow Avenue to Willow Avenue – **(Property located in District 6)** - Public Works Department

**Action Taken:** Continued to 3/21/2013 at 1:45 p.m.

- A. **RESOLUTION** – Establishing Underground District No. FRE-92 along the north side of Nees Avenue from 0.2 miles west of Willow Avenue to Willow Avenue

## **SCHEDULED COUNCIL HEARINGS AND MATTERS CONTINUED**

- 10:15 A.M.**      **HEARING** to consider Plan Amendment Application No. A-11-007, Rezone Application No. R-11-009, Official Plan Lines for N. Winery Avenue between E. Herndon Avenue and N. Willow Avenue, and associated environmental findings, filed by Trident Realty Partners, LLC., and Sol Development Associates, LLC, pertaining to approximately 37.79 acres of property located on the northwest corner of the intersection of E. Herndon and N. Willow Avenues (**Property located in District 6**) – Development and Resource Management Department  
**Action Taken:**    **Held**
- a.      Consider and adopt the environmental finding of a Mitigated Negative Declaration dated January 06, 2012, as prepared for Environmental Assessment No. A-11-007/R-11-009/OPL/TPM-2007-28 for purposes of the proposed project  
**Action Taken:**    **Adopted**
- b.      **RESOLUTION** – Amending the 2025 Fresno General Plan and Woodward Park Community Plan to change the planned land use designation for the subject property from the commercial business park planned land use designation to the community commercial planned land use designation. The application also proposes to amend the definition of an “expressway” street as defined in Policy E-1-A of the 2025 Fresno General Plan as follows: Four- to six-lane divided roadways primarily servicing through and crosstown traffic, with no direct access to abutting property and at-grade intersections located at approximately half-mile intervals [with additional signalized “jughandle” intersections as determined where necessary by the Public Works Director in order to mitigate level of service at major intersections along the expressway. The “jughandle” must occur in multiple quadrants of the intersection and will not be permitted in a single quadrant of a major intersection with the expressway]  
**Action Taken:**    **Resolution No. 2013-28 adopted**
- c.      **BILL** – Amending the Official Zone Map to rezone the subject property from the AE-5/UGM (Five Acre Agricultural/Urban Growth Management) zone district to the C-2/EA/UGM (Community Shopping Center/Expressway Area Overlay/Urban Growth Management) zone district to allow for the future development of the property with a retail shopping center  
**Action Taken:**    **Bill No. B-5/Ordinance No. 2013-4 adopted**
- d.      **BILL** – Adopting the map entitled Official Plan Lines for N. Winery Avenue between E. Herndon Avenue and North Willow Avenue, as a precise section of the 2025 Fresno General Plan Official Plan of Streets and Highways for public street use  
**Action Taken:**    **Bill No. B-6/Ordinance No. 2013-5 adopted**
- 10:30 A.M.**      Direct staff of the City of Fresno to initiate the hearing process for the proposed increase of water utility rates - Department of Public Utilities  
**Action Taken:**    **Rescheduled for 3/7/2013 at 10:30 a.m.**
- 1:30 P.M.**      Actions pertaining to amendments to the Fresno Municipal Code relating to Taxi Cabs – Councilmember Olivier
- a.      Adopt a Finding of a Categorical Exemption pursuant to Section 15061(b)(d) of the California Environmental Quality Act Guidelines that there is no possibility that the action may have a significant effect on the environment  
**Action Taken:**    **Adopted**
- b.      **BILL - (For introduction)** - Amending Sections 9-908, 9-909, 9-919 and 9-921 of the Fresno Municipal Code relating to taxi cabs  
**Action Taken:**    **Bill No. B-7 introduced/laid over**
- 3:00 P.M.**      **WORKSHOP** relating to Mid year budget update – City Manager’s Office ( **No action required**) - **Held**
- 3:15 P.M.**      \* **RESOLUTION** – 44<sup>th</sup> amendment to the Annual Appropriation Resolution No. 2012-125 transferring \$350,000 from the PARCS Department to Fresno Convention and Entertainment Center’s operating budget (**Requires 5 affirmative votes**) - PARCS  
**Action Taken:**    **Resolution No. 2013-29 adopted**
- 3:30 P.M.**      **WORKSHOP** relating to Health & Welfare Update – City Manager’s Office ( **No action required**) – Tabled to March/date to be set



## SCHEDULED COUNCIL HEARINGS AND MATTERS CONTINUED

- 5:00 P.M. Actions pertaining to the sufficiency of referendum petition regarding ordinance 2012-26 (Mid Valley Disposal Exclusive Franchise) and required Council action: **(Property located Citywide)** (City Clerk's Office)
1. **RESOLUTION** – Accepting the City Clerk's Certificate of Sufficiency for the Referendum Petition relating to Ordinance 2012-26 (Mid Valley Disposal Exclusive Franchise); **and**  
**Action Taken:** Resolution No. 2013-30 adopted
  2. Take one of the following actions:
    - a) **BILL - (For introduction)** - Repealing Ordinance No. 2012-26 titled "Granting to Mid Valley Disposal (Mid Valley), an Exclusive Franchise for the Collection of Residential Solid Waste, Recyclable Materials, and Organic Materials Within the City of Fresno", **or**  
**Action Taken:** Failed adoption
    - b) \* **RESOLUTION** – Calling a special municipal election on Tuesday, June 4, 2013, [**or** other Tuesday not less than 88 days from the date of the resolution] and submitting to City voters a ballot measure relating to Ordinance No. 2012-26 regarding grant of an exclusive franchise to Mid Valley Disposal for the collection of residential solid waste, recyclable materials, and organic materials within the City of Fresno; **or**  
**Action Taken:** Resolution No. 2013-31 adopted
    - c) \* **RESOLUTION** – Submitting to City voters at the next regular municipal election to be held on June 3, 2014, a ballot measure relating to Ordinance No. 2012-26 regarding grant of an exclusive franchise to Mid Valley Disposal for the collection of residential solid waste, recyclable materials, and organic materials within the City of Fresno  
**Action Taken:** Not adopted

**PLEASE NOTE: UNSCHEDULED COMMUNICATIONS IS NOT SCHEDULED FOR A SPECIFIC TIME AND MAY BE HEARD ANY TIME DURING THE MEETING**

**UNSCHEDULED COMMUNICATION** – Members of the public may address the Council regarding items that are not listed on the agenda and within the subject matter jurisdiction of the Council. Each person is limited to a three (3) minute presentation. Anyone wishing to be placed on an agenda for a specified topic should contact the City Clerk's Office at least ten (10) days prior to the desired date. Council action on unscheduled items, if any, shall be limited to referring the item to staff for a report and possible scheduling on a future Council agenda.

## SCHEDULED COUNCIL HEARINGS AND MATTERS

Mar.	7 -	10:00 A.M.	<b>HEARING</b> regarding Cultural Arts District Park Proposition 84
Mar.	7 -	10:15 A.M.	<b>HEARING</b> re: Rezone Application No. R-11-005, filed by Fresno Developers, LLC. for property located on the northwest corner of W. Shields and N. Marty Avenues <b>(District 1)</b>
Mar.	7 -	10:30 A.M.	Direct staff of the City of Fresno to initiate the hearing process for the proposed increase of water utility rates - Department of Public Utilities
Mar.	7 -	1:30 P.M.	<b>WORKSHOP</b> relating to Housing <b>(Meeting Room "A")</b>
Mar.	14 -	<b>NO MEETING -</b>	<b>RECESS</b>
Mar-	21-	1:30 P.M.	<b>HEARING</b> to adopt resolutions and ordinance to annex territory and levy a special tax regarding City of Fresno Community Facilities District No. 11, Annexation No. 48 (Final Tract Map No. 6003 and 6004) (Property located in District 6) (Southeast corner of E. Copper and N. Maples Avenues)
Mar-	21-	1:45 P.M.	<b>CONTINUED HEARING</b> to consider formation of Underground Utility District No. FRE-92 on the north side of Nees Avenue from 0.2 miles west of Willow Avenue to Willow Avenue – <b>(Property located in District 6)</b> - Public Works Department
Mar-	21-	4:00 P.M.	<b>WORKSHOP</b> relating to proposed project in the Millerton Specific Plan Area presented by Granville Homes – Council President Xiong
Mar-	28-	10:00 A.M.	<b>HEARING</b> re: Rezone R-09-012 for approval of a 10-story building at Friant/41